



Serial No.: 10/681,681  
Docket No.: 506558-0036

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

**APPEAL BRIEF**

Inventor : C. Dwayne Fulton  
Serial No. : 10/681,681  
Filing Date : October 8, 2003  
Title : WEIGHTS FOR MODEL RACING CARS

Group/Art Unit : 3722  
Examiner : Ali F. Abdelwahed  
Confirmation No. : 7681

Docket No. : 506558-0036

Mail Stop Appeal Brief – Patent  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits this Appeal Brief in support of the Notice of Appeal filed on February 4, 2005 and received at the Patent and Trademark Office on February 7, 2005. Also submitted herewith is a petition for a one-month extension of time in which to file the Appeal Brief, or until May 7, 2005. The Commissioner is authorized to charge the \$250 appeal brief filing fee to Deposit Account 19-4409.

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**I. REAL PARTY IN INTEREST**

The real party in interest in the present appeal is the assignee, Osment Models, Inc. The assignment was recorded at Reel 014600, Frame 0865 of the U.S. Patent and Trademark Office records.

**II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

**III. STATUS OF CLAIMS**

Claims 1-10, attached hereto as Appendix A, are pending in the application. Claims 1-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by an archived copy of Appellant's own Web site, allegedly establishing that Appellant had published or offered for sale the invention covered by the present application more than one year prior to the filing date of the application.

**IV. STATUS OF AMENDMENTS**

On February 4, 2005, in response to the final Office Action of November 5, 2004, Appellant filed a supplemental Amendment and Response adopting several of the examiner's suggested changes to the specification and claims, primarily dealing with typographical errors and antecedent references. In an Advisory Action of March 7, 2005, the examiner indicated that the proposed amendments were entered, and that Appellant's arguments had overcome the §103 rejection made in the final Office Action, but the examiner maintained the §102(b) rejection made in the final Office Action. Thus, claims 1-10 of the present application, and attached

hereto as Appendix A, include the amendments submitted with the supplemental Amendment and Response.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

### **A. Overview of the Present Invention**

The present invention is directed to weights for placement on the bottom of a model race car to increase its mass, and thus its speed. The weights of the present invention are formed in the shape of a simulated undercarriage of an actual automobile, with a portion of the weights resembling (for example) a frame, an engine, a drive shift, a differential, and a muffler. The simulated undercarriage form of the weight provides added realism to the model race cars to which they are attached. A second portion of the weights comprises a plurality of generally rectangular segments which are joined together by lines of weakness. The total mass of the weight can be adjusted by removing individual segments from the second portion by bending the weight along a line of weakness to snap the unwanted portion from the weight.

### **B. Description of Claimed Subject Matter**

Referring to FIG. 1, a weight 22 in accordance with an exemplary embodiment of the present invention includes a first component 24 and a second component 26. First component 24 resembles the undercarriage of an automobile, and includes a frame section 28, an engine section 30, a driveshaft 32 and a rear differential 34. In addition, weight 22 includes a simulated exhaust section 36 which includes exhaust pipes 38 and mufflers 40. Second weight component 26 includes a plurality of generally rectangular segments 42 which are joined

together by lines of weakness 44. Weight 22 is provided with three apertures which receive screws 46 for coupling the weight to the bottom of a body of a model race car.

Weight 22 further includes a first axle simulating portion 48 near the front of the body 12 and a second axle simulating portion 50 near the rear of body 12. Each of portions 48 and 50 covers an axle 52 for mounting wheels. First weight component 24 is integrally joined with second weight component 26 through linkage 56

Referring to FIGS 2 and. 3, a model car 10 with which the weight is intended to be used includes a body 12, wheels 14, and axles 52. In the embodiment shown, body 12 includes an external exhaust pipe 18 and an air foil 20.

In use, axles 52 are placed in grooves in car body 12 and weight 22 is secured to the bottom of body 12 utilizing screws 46. With weight 22 in place, axles 52 are held in place and wheels 14 are secured to the axles.

The total amount of mass required for weight 22 may be different from one car to another and from one race to another. Thus, one or more rectangular elements 42 may be removed by bending the element relative to an adjacent element until the two elements are separated along line of weakness 44 to vary the total mass of the weight. Removal of individual elements 42 will normally be done before the weight is secured to the body, but it is also possible to remove the individual elements after the weight has been coupled with the body.

#### **1. Claims 1-10**

Claim 1 is directed to a weight 22 for placement on a model racing car10 having a front, a rear and a bottom. Weight 22 has a total mass, and includes a simulated undercarriage of an automobile with multiple components 42 joined by lines of weakness 44, such that one or more of said components 42 can be broken away to vary the total mass of the weight 22

Dependent claim 2 (which depends from independent claim 1) requires that the undercarriage comprise a first component 24 in the shape of a frame and an engine, and a second component 26 comprising multiple segments 42 joined by lines of weakness 44.

Dependent claim 3 (which depends from claim 2) requires that the first component 24 include an exhaust system simulating section 36.

Dependent claim 4 (which depends from claim 2) requires that the first component 24 include a coupler (aperture) which, in conjunction with a fastener 46, allows the weight 22 to be joined to a model race car 10.

Dependent claim 5 (which depends from independent claim 1) requires that the first component 24 be configured to be placed at the front of a model race car 10, while the second component 26 is configured to be placed at the rear of the car 10.

Independent claim 6 is directed to a weight 22 for placement on a model racing car 10 having a front, a rear and a bottom. Weight 22 has a total mass, and includes a first component 24 for placement at one end of the car 10 that simulates the undercarriage of an automobile, including a frame section 28, an engine section 30, and an exhaust section 36. Weight 22 also includes a second component 26 for placement at the other end of the car 10, and including multiple component 42 joined by lines of weakness 44 so that one or more of the components 42 may be broken off to vary the total mass of the weight 22.

Independent claim 7 is directed to a method of providing mass for a model racing car 10, comprising the steps of; forming a weight 22 in the shape of an automobile undercarriage with multiple components 42 joined by lines of weakness 44, and attaching the weight 22 to the bottom of the car 10.

Dependent claim 8 (which depends from independent claim 7) further includes the step of removing one or more of the components 42 to vary the mass of the car 10.

Dependent claim 9 (which depends from independent claim 7) further includes forming the shape of the weight 22 to present a first component 24 in the shape of a frame 28 and an engine 30, and a second component 26 comprising multiple segments 42 joined by lines of weakness 44.

Dependent claim 10 (which depends from claim 9) further includes the step of removing one or more of the segments 42 to vary the weight of the car 10.

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 1-10 stand rejected under 35 U.S.C. § 102(b) on the grounds that an archived copy of Appellant's own Web site shows that the invention covered by the claims was on sale or in public use more than one year prior to the filing date of the application. Appellant notes that a §103 rejection made in the final Office Action of November 5, 2004 was withdrawn in an Advisory Action made in response to a supplemental Amendment and Response filed by Appellant on February 4, 2005. Thus, only the §102(b) rejection remains against claims 1-10 in the application, and only that §102(b) rejection is to be reviewed on this appeal.

## **VII. ARGUMENT**

The only issue in this appeal is whether an archived version of Appellant's Web site, cited by the examiner as the basis for rejecting all of the claims in the application, accurately reflects what was published on Appellant's actual Web site prior to the application filing date such that it supports a rejection of claims 1-10 under 35 U.S.C. §102(b).

The examiner relies entirely on the archive as the basis for his rejection. As the basis for Appellant's claim that the cited archive Web site is incorrect, Appellant relies on: (1) sworn testimony by persons having first-hand knowledge of Appellant's products and Web site, (2) factual inconsistencies within the cited archived Web site, and (3) disclaimers of any claim of accuracy by the archival service maintaining the archived Web site. Appellant maintains that the archived Web site cited by the examiner is inaccurate, and thus does not and cannot support a §102(b) rejection of claims 1-10 of the present application.

**A. Prosecution History**

The present application, having ten claims (1-10), was filed on October 8, 2003. On April 7, 2004, a first Office Action was issued in which claims 1-10 were rejected under 35 U.S.C. §102(b) on the grounds that the invention of the present application "is shown as being in public use or sale through the web site <http://www.pinecar.com/> and relevant dates for this web site are shown in the web site [http://web.archive.org/web/\\*/http://www.pinecar.com/](http://web.archive.org/web/*/http://www.pinecar.com/)." (see Office Action of April 7, 2004, last page). Notably, the examiner did not include any hardcopy printouts of the information relied on from the Web site, but instead provided only the URL links to the Web site.

The URL cited by the examiner is a page from the "archive.org" Web site, also referred to as the "Internet Wayback Machine". The archive.org site ostensibly captures information from various Web sites at periodic intervals to create a database documenting what information was posted on a given Web site at various past dates. This information can be useful since the nature of most Web sites is that they are dynamic and ever-changing.

The specific page cited by the examiner at the archive.org site ([http://web.archive.org/web/\\*/http://www.pinecar.com/](http://web.archive.org/web/*/http://www.pinecar.com/), a printout of which is attached hereto as

Appendix B), presents a columnar format page presenting links to supposedly archived versions of Appellant's own Web site, starting in December 1998 and continuing through November 2004. Since the examiner did not provide a printout of the information he was relying on, or give any indication of which specific link he followed to find the information on which he based his §102(b) rejection, Appellant was left to pursue every link dated more than one year prior to October 8, 2003, the filing date of the present application. In doing so, Appellant found the archive.org site to be misleading and inaccurate, in that pursuing links to allegedly archived information would sometimes present information taken from the present version of Appellant's Web site. Thus, Appellant realized that the examiner was likely relying upon incorrect information in making his §102(b) rejection.

In response to the Office Action, Appellant obtained Declarations from two employees of Appellant with responsibility for, and first-hand knowledge of, Appellant's Web site. The Declarations (discussed below) established that no public use, sale, or publication (including any Web site publication) of the invention covered by the present application had occurred more than one year prior to the filing of the application. In fact, the graphics for the invention to be posted on the Web site were not even created until one month prior to the filing date of the present application, or approximately September, 2003.

In the final Office Action of November 11, 2004, and the Advisory Action of March 7, 2005, the examiner has: (1) stated that a declaration under 1.131 cannot overcome a §102(b) rejection, (2) stated that Appellant has not presented any evidence that the archive.org information relied on by the examiner is incorrect, and (3) maintained his §102(b) rejection of claims 1-10 of the present application.



Appellant disagrees with the examiner's rejection, and asks this Board to consider the following:

**B. Examiner's Dismissal of "1.131" Declarations**

In the final office action of November 5, 2004, addressing the declarations submitted by Appellant establishing that no public use, sale, or publication of the invention had occurred more than one year prior to the application date, the examiner stated that "1.131" declarations cannot be used to overcome a §102(b) statutory bar. While Appellant certainly does not disagree with that specific statement, Appellant does disagree with the examiner's characterization of the submitted declarations as "1.131 declarations." The declarations submitted by Appellant in response to the first office action (copies of which are attached hereto as Exhibits G and H, and discussed in more detail below) are not 1.131 declarations attempting to "swear behind" the cited reference. They are sworn declarations establishing: (1) that no public use, sale, or publication of the invention had taken place more than one year prior to the application date, and (2) the inaccuracy of the archive.org Web site.

Thus, the examiner's dismissal of these declarations as "1.131" declarations is improper. The sworn statements in those declarations should, in fact, carry great weight in establishing the lack of credibility of the archive.org Web site, and should have been considered by the examiner.

**C. The Inaccuracy of the Cited "archive.org" Web Site**

The examiner's basis for rejecting claims 1-10 of the present application under 35 U.S.C. §102(b) is an archived version of Appellant's pincecar.com Web site, located on the archive.org Web site at URL [http://web.archive.org/web/\\*/http://www.pinecar.com/](http://web.archive.org/web/*/http://www.pinecar.com/). For at least

the following reasons, Appellant believes that reliance upon the archive.org Web site as a §102(b) reference is tenuous, at best.

In order to appreciate the frustration that the archive.org Web site presents, Appellant respectfully requests that the members of this Board actually attempt to access the link cited by the examiner in making his rejection. Pursuing the dated links of the supposedly archived versions of Appellant's Web site will lead to incomplete archives, inaccessible links, "recursive errors", and even redirection to information from Appellant's current Web site.

**1. The "archive.org" Site**

The archive.org site, also called "The Wayback Machine" state its purpose as "building a digital library of Internet sites and other cultural artifacts in digital form. Like a paper library, we provide free access to researchers, historians, scholars, and the general public" (see home page of archive.org). However, the archive.org site, in its own terms and conditions, makes it clear that it does not vouch for the accuracy of the archival, and that users attempting to access archived material may, in fact, be redirected to a current version of the purportedly archived material, rather than an archived version. Thus, unlike a commercial database such as Lexis-Nexis, which truly collects and archives articles, the archive.org site attempts to take a snapshot of Web site information, but often cannot do so.

Looking first to the terms and conditions of the archive.org site (available through the home page of archive.org), it is clear that no claim to the accuracy of the purportedly archived information is made (emphasis added):

Because the content of the Collections comes from around the world and from many different sectors, the Collections may contain information that might be deemed offensive, disturbing, pornographic,

racist, sexist, bizarre, misleading, fraudulent, or otherwise objectionable.

The Archive does not endorse or sponsor any content in the Collections, nor does it guarantee or warrant that the content available in the Collections is accurate, complete, noninfringing, or legally accessible in your jurisdiction, and you agree that you are solely responsible for abiding by all laws and regulations that may be applicable to the viewing of the content. In addition, the Collections are provided to you on an **as-is and as-available basis**. You agree that your use of the Site and the Collections is at your sole risk. **You understand and agree that the Archive makes no warranty or representation regarding the accuracy, currency, completeness, reliability, or usefulness of the content in the Collections**, that the Site or the Collections will meet your requirements, that access to the Collections will be uninterrupted, timely, secure, **or error free**, or that defects, if any, will be corrected. **We make no warranty of any kind**, either express or implied.

Thus, while the information from the archive.org site may be useful, it certainly cannot be relied upon to be accurate or error-free.

Looking next to the frequently asked questions (FAQ) portion of the archive.org site (available through the archive.org home page), the problem of redirection, where a link to an archive site instead takes a user to the current, live version of the site, is addressed:

**How did I end up on the live version of a site? or I clicked on X date, but now I am on Y date, how is that possible?**

Not every date for every site archived is 100% complete. When you are surfing an incomplete archived site the Wayback Machine will grab the closest available date to the one you are in for the links that are missing. In the event that we do not have the link archived at all, the Wayback Machine will look for the link on the live web and grab it if available. Pay attention to the date code embedded in the archived url. This is the list of numbers in the middle; it translates as yyymmddhhmmss. For example in this url

<http://web.archive.org/web/20000229123340/http://www.yahoo.com/> the date the site was crawled was Feb 29, 2000 at 12:33 and 40 seconds.

Thus, archive.org admits that not only is not every site's archive "100% complete", in fact "in the event we do not have the link archived at all, **the Wayback Machine will look for the link on the live web and grab it if available.**" Thus, the archive.org site admittedly will in some cases deliver current content when an archived version has been requested. This alone is enough to challenge the veracity of the archive.org site as a valid reference on which to base a §102(b) rejection. Being an incomplete database is bad enough, admittedly supplying current material in the place of allegedly archived material is completely unacceptable.

**2. Examples of Inaccuracies in Archive Material**

Examples of obvious inaccuracies and problems in the archived versions of Appellant's Web site can be seen in the printouts attached hereto as Appendices C through F.

Appendix C is a printout of the Web page displayed after clicking on the link to the December 12, 1998 archived version of Appellant's Web site. Note that the information displayed indicates that the page had been last updated in February 1999, two months after the information was allegedly archived. Appendix D is a printout of the Web page displayed after clicking on the link to the October 19, 2000 archived version of Appellant's Web site. The archive.org site indicates a "failed connection" and does not correctly display archived

information. Appendix E is a printout of the Web page displayed after clicking on the link to the May 28, 2002 archived version of Appellant's Web site. Note that archived information is not properly displayed because the page is being redirected to itself. Appendix F is a printout of the Web page displayed after clicking on the link to the August 3, 2002 archived version of Appellant's Web site. Note here that the page recursively displayed the "Not in Archive" message.

The commonality of attempting to retrieve archived information using the exemplary cited links is that the information displayed does not accurately reflect an archived version of Appellant's Web site for the cited date. Appellant again urges the Board to actually access the links on the page cited by the examiner to get a better feel for the inconsistent, unprofessional, and overall haphazard approach to "archived" material that the archive.org site provides.

### **3. Declarations of Appellant**

Finally, as discussed briefly above, attached hereto are the sworn declarations of Jeffery L. Thompson (Exhibit G) and Timothy P. Harryman (Exhibit H), employees of Appellant. The examiner has ignored these signed, sworn declarations which establish (among other things) that: (1) the product covered by the present patent application was first publicly shown at a trade show in September, 2003; (2) the first sale of the product occurred in December 2003; and (3) the graphics of the product for inclusion on Appellant's Web site were not created until sometime in September, 2003. None of these dates pre-date the filing date of the present application by more than one year so as to support a rejection under 35 U.S.C. §102(b).

The declarations establish, based on the sworn statements of employees of Appellant having first-hand knowledge of the Appellant's Web site content, that the information

cited by the examiner from archive.org is incorrect. The sworn declarations further establish that the declarants contacted archive.org representatives and were told that the information on archive.org with respect to Appellant's Web site was incorrect. Appellant's declarations thus establish that the information upon which the examiner establishes the date of publication or public use or sale on Appellant's Web site is not correct, thus the cited reference is not a valid reference, and the examiner's rejection under 35 U.S.C. §102(b) is improper.

This Board has previously stated that *prima facie* evidence under 35 U.S.C. §102(b) may be rebutted by convincing factual evidence to the contrary. See *Ex Parte Research & Mfg. Co., Inc.*, 10 USPQ2d 1657 (BPAI 1989) where a copyright registration held as *prima facie* evidence of publication date was refuted by letters and affidavits. Appellant submits that the examiner has erred in dismissing the sworn declarations submitted by Appellant as not presenting any "relevant proof" to substantiate the actual date the information was placed on Appellant's Web site.

In the final rejection of November 5, 2004, the examiner states that Appellant has not presented any "relevant proof" to substantiate the date the information was placed at Appellant's Web site. In fact, Appellant has provided sworn statements from persons with first-hand knowledge that the information cited by the examiner was not posted on Appellant's Web site on the date alleged by the examiner. Appellant has provided sworn statements that archive.org representatives have told Appellant that the archived information at archive.org, relating to Appellant's Web site, is inaccurate. Appellant has provided a disclaimer from the cited archive.org Web site in which archive.org explicitly makes no guarantee, warranty, or representation that the content available at the site is accurate or complete. And, finally,

Appellant has accessed the archive.org site and found that in some cases information from the Appellant's current Web site is displayed after clicking on a link to a supposedly archived site.

Appellant submits that not only has Appellant provided "relevant proof" that the information cited by the examiner is inaccurate, unsubstantiated hearsay, Appellant has provided overwhelming evidence that the information the examiner relies on is inaccurate. Thus, the examiner's rejection of claims 1-10 under 35 U.S.C. §102(b) is improper.

## **VIII. APPENDICES**

Attached hereto are the following Appendices:

Appendix A – Pending Claims

Appendix B – Web Page at URL cited by the examiner

Appendix C - Web Page at December 12, 1998 Link

Appendix D - Web Page at October 19, 2000 Link

Appendix E - Web Page at May 28, 2002 Link

Appendix F - Web Page at August 3, 2002 Link

Appendix G - Declaration of Jeffery Thompson

Appendix H - Declaration of Timothy Harryman

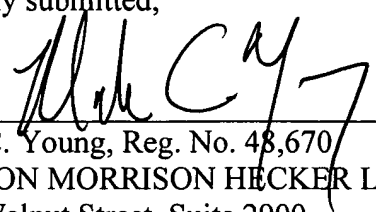
## **IX. SUMMARY**

For the foregoing reasons, Appellant respectfully submits that there was no public use, sale, or publication of the invention more than one year prior to the filing date of October 8, 2003, and that the archived Web site cited by the examiner is not valid to support a rejection

under 35 U.S.C. §102(b). Thus, claims 1-10 of the present application are patentable, and should be allowed. Accordingly, Appellant respectfully requests that the Board reverse the Examiner's rejection and allow claims 1-10.

Respectfully submitted,

By: \_\_\_\_\_

  
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## **APPENDIX A**

### **Pending Claims**

1. A weight for placement on a model racing car having a front, a rear and a bottom, said weight having a total mass and comprising:

a simulated undercarriage of an automobile including multiple components joined by lines of weakness whereby one or more of said components can be broken away to vary said total mass of the weight.

2. A weight as set forth in claim 1, wherein said undercarriage has a shape and comprises a first component in the shape of a frame and an engine and a second component comprising multiple segments joined by lines of weakness.

3. The invention of claim 2, wherein said first component includes an exhaust system simulating section.

4. The invention of claim 2, wherein said first component includes a coupler which cooperates with a fastener to join said weight to said model racing car.

5. The invention of claim 1, wherein a first component is configured to be placed at said front of said car and a second component is configured to be placed at said rear of said car.

6. A weight for placement on a model racing car having a front end, a rear end and a bottom, said weight having a mass and comprising:

a first component which simulates an undercarriage of an automobile,

said first component including a frame simulating section, an engine simulating section and an exhaust simulating section;

said first component being adapted to be placed at one end of said car; and

a second component coupled with said first component at the other end of said car and comprising multiple components joined by lines of weakness whereby one or more of said components can be broken away to vary a total mass of said weight.

7. A method of providing mass for a model racing car having a front, a rear and a bottom comprising the steps of:

forming a weight in the shape of an automobile undercarriage with multiple components joined by lines of weakness; and attaching said weight to said bottom of said model racing car.

8. A method as set forth in claim 7, including the step of removing one or more of said components to vary the mass of said car.

9. A method as set forth in claim 7, comprising forming said shape of said weight to present a first component in the shape of a frame and an engine and a second component comprising multiple segments joined by lines of weakness.

10. A method as set forth in claim 9, including the step of removing one or more of said segments to vary the weight of said car.

**APPENDIX B**

**Web Page Cited by Examiner**



Enter Web Address:

All

Take Me Back

Adv. Search Compare Archive Pages

Searched for <http://www.pinecar.com>

87 Results

Note some duplicates are not shown. See all.  
\* denotes when site was updated.

Search Results for Jan 01, 1996 - May 09, 2005

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
0 pages	0 pages	1 pages	5 pages	9 pages	12 pages	13 pages	25 pages	18 pages	0 pages
	<a href="#">Dec 12, 1998</a> *		<a href="#">Jan 25, 1999</a> * <a href="#">Feb 03, 1999</a> <a href="#">Feb 08, 1999</a> * <a href="#">Apr 28, 1999</a> <a href="#">May 03, 1999</a>	<a href="#">Mar 03, 2000</a> * <a href="#">Mar 04, 2000</a> <a href="#">May 11, 2000</a> <a href="#">May 20, 2000</a> <a href="#">Jun 12, 2000</a> <a href="#">Jun 19, 2000</a> <a href="#">Aug 15, 2000</a> <a href="#">Oct 01, 2000</a> <a href="#">Oct 19, 2000</a>	<a href="#">Feb 02, 2001</a> * <a href="#">Feb 04, 2001</a> <a href="#">Feb 24, 2001</a> <a href="#">Mar 02, 2001</a> <a href="#">Mar 30, 2001</a> <a href="#">Apr 02, 2001</a> <a href="#">Apr 04, 2001</a> <a href="#">Apr 18, 2001</a> <a href="#">May 16, 2001</a> <a href="#">Jul 21, 2001</a> <a href="#">Sep 24, 2001</a> <a href="#">Dec 02, 2001</a>	<a href="#">Jan 19, 2002</a> <a href="#">May 28, 2002</a> * <a href="#">Jun 02, 2002</a> <a href="#">Jun 05, 2002</a> * <a href="#">Jul 26, 2002</a> * <a href="#">Aug 03, 2002</a> * <a href="#">Sep 23, 2002</a> <a href="#">Sep 28, 2002</a> <a href="#">Sep 29, 2002</a> <a href="#">Nov 20, 2002</a> * <a href="#">Nov 23, 2002</a> <a href="#">Nov 26, 2002</a> <a href="#">Nov 29, 2002</a>	<a href="#">Jan 24, 2003</a> <a href="#">Jan 25, 2003</a> <a href="#">Feb 07, 2003</a> <a href="#">Feb 11, 2003</a> <a href="#">Mar 21, 2003</a> <a href="#">Apr 02, 2003</a> <a href="#">Apr 24, 2003</a> <a href="#">Jun 08, 2003</a> * <a href="#">Jun 09, 2003</a> <a href="#">Jul 28, 2003</a> * <a href="#">Jul 30, 2003</a> * <a href="#">Aug 01, 2003</a> <a href="#">Aug 06, 2003</a> * <a href="#">Aug 08, 2003</a> * <a href="#">Sep 24, 2003</a> * <a href="#">Sep 29, 2003</a> * <a href="#">Oct 01, 2003</a> <a href="#">Oct 12, 2003</a> <a href="#">Oct 22, 2003</a> * <a href="#">Nov 29, 2003</a> * <a href="#">Dec 01, 2003</a> * <a href="#">Dec 02, 2003</a> <a href="#">Dec 13, 2003</a> * <a href="#">Dec 18, 2003</a> <a href="#">Dec 28, 2003</a> *	<a href="#">Feb 09, 2004</a> * <a href="#">Feb 11, 2004</a> * <a href="#">Feb 20, 2004</a> * <a href="#">Mar 18, 2004</a> * <a href="#">Mar 26, 2004</a> * <a href="#">Apr 03, 2004</a> * <a href="#">Apr 04, 2004</a> <a href="#">May 19, 2004</a> * <a href="#">Jun 05, 2004</a> * <a href="#">Jun 08, 2004</a> <a href="#">Jun 11, 2004</a> * <a href="#">Jun 19, 2004</a> * <a href="#">Jun 26, 2004</a> * <a href="#">Jul 19, 2004</a> <a href="#">Sep 20, 2004</a> <a href="#">Sep 20, 2004</a> * <a href="#">Oct 09, 2004</a> * <a href="#">Nov 24, 2004</a>	

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## **APPENDIX C**

### **December 12, 1998 Link**



*For all your Pinewood Derby needs!*



Factory Store  
P.O. Box 98  
Linn Creek, MO 65052  
(573) 346-4479  
M-F 8-5 Central Time USA

February 1999

*Welcome!* If this is your first visit and you'd like some help please select from one of the links below for assistance.

If you're familiar with on-line shopping you can get started right away by selecting any of the categories in the lefthand column :-)

- [Buy direct from the PineCar Factory!](#)
- [Search for a hobby store in your area.](#)

Have comments on or suggestions for our Web Site? [Click Here.](#)  
[Click here to learn about shopping PineCar on-line!](#)

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## **APPENDIX D**

**October 19, 2000Link**





Enter Web Address:

## Failed Connection.

We're sorry. Your request failed to connect to our servers. We may be experiencing technical difficulties and suggest that you try again later.  
See the [FAQs](#) for more info and help, or [contact us](#).

---

[Home](#) | [Help](#)

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## **APPENDIX E**

**May 28, 2002 Link**



Enter Web Address:

## Redirect Error.

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Serial No.: 10/681,681  
Docket No.: 506558-0036

## **APPENDIX F**

**August 3, 2002 Link**



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**APPENDIX G**

**Declaration of Jeffery L. Thompson**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor : C. Dwayne Fulton  
Serial No. : 10/681,681  
Filing Date : October 8, 2003  
Title : WEIGHTS FOR MODEL RACING CARS

Group/Art Unit : 3712  
Examiner : Ali F. Abdelwahed  
Confirmation No. : 7681

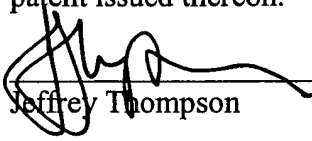
Docket No. : 506558-0036

**DECLARATION OF JEFFREY THOMPSON**

I, Jeffrey L. Thompson, under penalty of perjury do hereby state:

1. I am a resident of Camdenton, Missouri, USA.
2. I am employed by Osment Models, Inc. ("the company").
3. I hold the position of Director of Accounting.
4. I have been employed by Osment Models, Inc. since February 28, 2000.
5. I was actively involved with the company at the time it developed and introduced the product which is the subject of the above-identified patent application.
6. I am familiar with the introduction of this product to the public and the first sale of the product.
7. The product was first publicly shown at a trade show in September, 2003.
8. I have ascertained from an examination of company records that the first sale of this product occurred in December, 2003.
9. I have examined the website referenced by Examiner Ali Abduwalhead in the letter dated April 7, 2004 from the United States Patent and Trademark Office. This website is identified by the domain name web.archive.org. The information contained in this website with regard to the history of the website www.pinecar.com is inaccurate. The pinecar.com website did not include the information which is presently on that website until subsequent to September of 2003.
10. At my instruction, the Information Systems Director of our company, Timothy Harryman, has communicated with a representative of the website, www.archive.org. This investigation confirmed that the archived information with regard to www.pinecar.com was not accurate.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
\_\_\_\_\_  
Jeffrey Thompson

Date: 5/5/04

**APPENDIX H**

**Declaration of Timothy P. Harryman**



Attorney Docket No.: 506558-0036  
First Named Inventor: C. Dwayne Fulton

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor : C. Dwayne Fulton  
Serial No. : 10/681,681  
Filing Date : October 8, 2003  
Title : WEIGHTS FOR MODEL RACING CARS

Group/Art Unit : 3712  
Examiner : Ali F. Abdelwahed  
Confirmation No. : 7681

Docket No. : 506558-0036

**DECLARATION OF TIMOTHY HARRYMAN**

I, Timothy P. Harryman, am Director of Information Systems for Osment Models, Inc. ("the company").

1. I have been employed by Osment Models since January 2, 2002.
2. I was employed by Osment Models, Inc. at the time it introduced the product which is the subject of the above-identified patent application.
3. I was instructed by Jeff Thompson to contact the website web.archive.org in an effort to determine the accuracy of information they are providing with regard to the history of the company website, www.pinecar.com
4. I have conducted this investigation including telephone contact with a representative of www.archive.org who confirmed for me that the archival information with regard to our website, www.pinecar.com was inaccurate.
5. I am also personally aware of the fact that the oldest graphics used by the company in conjunction with the product that is the subject of the above-identified patent application, for the company website were created sometime in September of 2003. Accordingly, I am certain that the company website did not contain any information on the referenced product prior to that date.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
Timothy Harryman

Date: 5 MAY 2004